

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 553 of 1996

to

FIRST APPEAL No 563 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DY.COLLECTOR,LAQ & REHABILITATION(IRRIGATION)

Versus

HEIR OF NARAN MADHA- PURIBEN WD/O NARAN MADHA

Appearance:

Mr K M Mehta, AGP for Petitioners

CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE N.N.MATHUR

Date of decision: 07/10/96

ORAL JUDGEMENT (per. Patel, J.)

The State of Gujarat has preferred these Appeals against the award made by the 1d. Extra Asstt.Judge, Ahmedabad (Rural) on a reference under Section 18 of the Land Acquisition Act (hereinafter referred to as 'the Act'). The impugned award is dated 25.7.1995 and the

State has lodged this Appeal before this Court on 1.2.1996.

2. The Deputy Collector, Land Acquisition and Rehabilitation (Irrigation), Bhavnagar made an award in Land Acquisition case No.70/84 on 9.3.1986. The agricultural lands referred to in para 2 of the award, were sought to be acquired. The said lands are situated at Village Keriya, Taluka Dhanduka, Ahmedabad. A Notification under section 4 of the Act was published in the Gazette on 26.9.1985 and the award was made by the Land Acquisition Officer on 9.3.1986 awarding 0.30 ps per sq.metre. In the reference petition, demand was made for Rs.15/- per sq.meter.

3. It appears that the claimants relied on two certified copies of judgments for claiming compensation for acquisition of agricultural lands situated at Village Sangalpur, Taluka, Dhandhuka and also Village Keria, Taluka Dhandhuka (vide Exhs. 27 and 26.) From the award it appears that in the aforesaid cases, Notification under section 6 was published on 12.7.1984 and the Extra Asstt.Judge had awarded Rs.4/- per sq.mtr. as additional compensation on 28.4.1989. The learned Judge has also mentioned in the award that the State being aggrieved by the aforesaid award, preferred Appeal No. 718/90 before this Court and the same has been dismissed. Another case was cited before the Court wherein the lands situated in Village Keriya were sought to be acquired. In that case, Notification under section 4 was published on 16.8.1985 wherein the learned Joint District Judge awarded Rs.4.50 per sq.mtr as additional compensation. For the purpose of arriving at the conclusion, the learned Judge in para 13 of the judgment, has pointed out that the Notification under section 4 in connection with the judgment produced by exh. 26 was published on 16.8.1984 whereas in the instant case, notification under section 4 was published on 26.9.1985. Considering the dates, the learned Judge has thought it fit to award additional compensation at the rate of Rs.4.50 per sq.mtr. more particularly, when the judgment at Exh.27 is confirmed by this Court on which reliance is placed by the claimants.

4. Mr K M Mehta, learned AGP submitted that he would like to enquire into the matter as to whether the Appeal preferred by the State is dismissed on the ground of delay or on merits, or whether in any other cases appeal is filed or not. We deprecate the method of making request for adjourning the matter on such grounds because the appeal in the instant case has been preferred on 1.2.1996 and the matter is being taken for admission on

7.10.1996. There was sufficient time for the learned AGP to make enquiries in this respect. Over and above, if that was so, such ground could have been taken specifically in the memo of Appeal. When we put a pointed question to Mr Mehta as to whether any such ground is taken in the Appeal or not, Mr Mehta frankly stated that such ground is not taken. Under the circumstance, it cannot be said that the Extra Asstt. Judge has committed any error and therefore, we do not find any reason to interfere with the impugned award in question, and accordingly the Appeals are dismissed.

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